

ITEM 7 - Hearing on Proposed Amendments to the Sacramento River and San Joaquin River Basin Plan to Control the Discharge of Diazinon and Orchard Pesticide Runoff into the Sacramento and Feather Rivers

Revisions to the Resolution

Attachment to Resolution

Page 2: Change the text under Diazinon Discharges into the Sacramento and Feather Rivers as follows:

Beginning July 1, 2008, (i) the direct or indirect discharge of diazinon into the Sacramento and Feather Rivers is prohibited if, in the previous year, any exceedance of the diazinon water quality objectives or load allocations for the Sacramento and Feather Rivers occurred. , and (ii) the direct or indirect discharge of diazinon into any sub-watershed (identified in Table IV-5) is prohibited if, in the previous year, the load allocation was not met in that sub-watershed. Prohibition (i) applies only to diazinon discharges that are tributary to or upstream from the location where the water quality objective was exceeded.

~~This~~ These prohibitions does not apply if the discharge of diazinon is subject to a waiver of waste discharge requirements implementing the water quality objectives and load allocations for diazinon for the Sacramento and Feather Rivers, or governed by individual or general waste discharge requirements.

Page 3: To the end of Item 7 add: ... The value for Q (flow) in the Loading Capacity calculations for the Sacramento River sites will be increased to account for any flood control diversions into the Yolo Bypass or Butte Sink. The best available estimates of such diversions will be used.

Page 4: Change Item 9 as follows: ... The Regional Water Board shall ~~may~~ require any additional reductions in diazinon levels necessary to account for additive or synergistic toxicity effects or to protect beneficial uses in tributary waters. ~~Such requirements may include waste discharge requirements or effluent limitations based on pesticide or toxicity water quality objectives.~~

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Revisions to the Staff Report

- Inside cover: In listing of Board members add: “*Lucille Palmer-Byrd, Member*”
- Pages 19 and 20: Replace with Attachment “A”. This change makes the proposed amendments to the Basin Plan in the Staff Report consistent with the proposed amendments to the Basin Plan in Attachment 1 of the Resolution. In addition, Section 2 of the Staff Report should be changed to reflect the late revisions to the resolution referenced above.
- Page 41: In the last sentence of section 4.3.3, change “...meet the anti-degradation criteria” to “...meet the no detectable levels of diazinon alternative”.
- Page 67: Add to the end of Section 5.3.11: “Porter-Cologne requires a discharger of waste to file a report of waste discharge (§13260) and the Regional Board to prescribe waste discharge requirements (§13263), unless such requirements have been waived (§13260 and §13269). Any discharge of diazinon not covered by a waiver of waste discharge requirements or governed by waste discharge requirements is not a legal discharge. Application of this prohibition provides the Regional Board with more enforcement options (e.g. civil penalties could be immediately issued) for any illegal discharge of diazinon that is contributing to an exceedance of water quality objectives.
- “It should be noted that a discharger can avoid any difficulties posed by the prohibition by participating in an applicable waiver or general waste discharge requirement program or by seeking individual waste discharge requirements. All dischargers must submit management plans by June 30, 2005, whether or not the Regional Board incorporates this requirement into waste discharge requirements or a waiver. The monitoring requirements of this proposed Basin Plan Amendment have been specifically designed to be implemented through the applicable waiver or waste discharge requirement program. However, if a discharger is not participating in a waiver or waste discharge requirement program, the Regional Board will not have an efficient mechanism for ensuring the necessary monitoring is taking place and that management plans are being implemented”
- Pages 70-82: Replace Section 5.5 with Attachment “B”. Section 5.5 includes the discussion of the Loading Capacity/TMDL. Minor editorial changes are made and more explanation of the margin of safety and load allocation for the Sacramento River from Verona to I Street reach is provided.

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- Page 89: The last sentence at the bottom of the page, change "...could be established based on prohibition of any degradation..." to "...could be established based on prohibition of any diazinon..."
- Page 98: Add the following after the last paragraph in Section 6.2.1: "Although the Basin Plan Amendment establishes diazinon water quality objectives and allocations, the Basin Plan's general pesticide objectives and policies still apply to diazinon discharges. Based on current information, reduction of diazinon levels to meet the allocations and water quality objectives should be sufficient to protect the Sacramento and Feather Rivers from diazinon discharges. If it is later found that diazinon discharges are contributing to a violation of other Basin Plan water quality objectives (e.g. due to additive or synergistic toxicity impacts), additional Regional Board action to reduce diazinon discharges may be necessary.
- "For example, if diazinon levels were at 0.25 toxic units (or TU) and had an additive toxic effect with Pollutant Z that was at 1.25 TU (1.5 TU total), then reductions only in Pollutant Z may be sufficient to achieve a non-toxic condition. If both diazinon and Pollutant Z were at 0.75 TU (1.5 TU total), reductions in both pollutants would likely be necessary to achieve a non-toxic condition.
- "Given the potential for the need for further reductions of diazinon, either due to toxicity issues discussed above or to protect tributary waters, the Basin Plan Amendment clarifies that the diazinon objectives and allocations are maximum allowable levels. In addition, the Basin Plan Amendment states that the Regional Board shall require any necessary reductions in diazinon levels to account for additive or synergistic effects or protect beneficial uses in tributary waters. Depending on the nature of the needed reductions, the Regional Board may further regulate diazinon through any existing waste discharge requirements, waiver of waste discharge requirements, or by amending the Basin Plan."
- Section 11: Add the following references:
- DWR (Department of Water Resources). 2003. California Data Exchange Center. California Department of Water Resources.
<http://cdec.water.ca.gov/>
- Markham, K.L., S.W. Anderson, G.L. Rockwell, and M.F. Friebe. 1996. Water Resources Data - California, Water Year 1995. Volume 4, Northern Central Valley Basins and the Great Basin from Hotey Lake Basin to Oregon State Line. USGS Water Resources Division, California District. Sacramento, CA.

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USGS (US Geological Survey). 2003. National Water Information
System (NWIS) Online Database. <http://waterdata.usgs.gov/nwis/>

Note on Fee discussion in Staff Report

In a number of places in the Staff Report (Section 5 and 8), the differences between waste discharge requirements (WDRs) and waivers of waste discharge requirements (waivers) are discussed in the context of fees that may be collected. The discussion states that for WDRs annual fees are collected and for waivers filing fees may be collected. Recently passed legislation that will take effect shortly (AB1X 10) requires the collection of annual fees for dischargers with waivers of waste discharge requirements, if the waiver requires dischargers to submit reports of waste discharge . Pending legislation (SB 923, awaiting the Governor's signature as of the date of this writing) would allow the Regional Board to charge annual fees for waivers. A fee schedule would need to be established by the State Water Resources Control Board (State Board) through a regulatory action.

No changes in the Staff Report have been made to reflect the recent and pending legislative changes, since the practical difference between a fee schedule for dischargers with WDRs versus dischargers under a waivers will not be known until the State Board adopts a fee schedule. Since the proposed Basin Plan Amendment does not require the use of one regulatory tool over another (i.e. WDRs versus waivers) and the enacted and pending legislation both provide the Regional Board with discretion whether to assess fees, the fee discussion only provides background information and was not used to develop the recommended Basin Plan Amendment.